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15 Superintendent of Public Instruction Tony
16 Thurmond and Attorney General Rob Bonta*

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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

14 T.S., et al.

15 Plaintiffs,

16 v.

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18 RIVERSIDE UNIFIED SCHOOL
19 DISTRICT, et al.

20 Defendants.

21 5:24-cv-02480-SSS (SPx)

22 **STATE DEFENDANTS' NOTICE
23 OF MOTION TO DISMISS AND
24 MOTION TO DISMISS
25 PLAINTIFFS' FIRST AMENDED
26 COMPLAINT**

27 **[Fed. R. Civ. P. 12(b)(1) & (6)]**

28 Date: Friday, May 16, 2025
Time: 2:00 p.m.
Courtroom: 2
Judge: The Honorable Sunshine
Suzanne Sykes
Trial Date: Not Set
Action Filed: 11/20/2024

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that on May 16, 2025, at 2:00 p.m., or as soon as
3 the matter may be heard, before the Honorable Sunshine Suzanne Sykes in
4 Courtroom 2 of the United States District Court for the Central District of
5 California, Eastern Division, located at 3470 Twelfth Street, Riverside, CA 92501,
6 Defendants State Superintendent of Public Instruction Tony Thurmond and
7 Attorney General Rob Bonta (collectively, State Defendants) will and do hereby
8 move this Court for an order to dismiss State Defendants from this action and all
9 claims asserted against them under Federal Rules of Civil Procedure 12(b)(1) and
10 (6) on the following grounds:

11 As to all claims for relief asserted against State Defendants (claims 4 through
12 7), this Court lacks subject matter jurisdiction under Rule 12(b)(1) because
13 Plaintiffs lack standing. With respect to the seventh claim for relief based on
14 violation of state law, State Defendants also have Eleventh Amendment immunity
15 and thus, the seventh claim is barred.

16 In addition, all of Plaintiffs' claims against State Defendants should be
17 dismissed under Rule 12(b)(6) on the grounds that Plaintiffs have failed to state
18 cognizable claims under Title IX, 20 U.S.C. § 1681 (claims 4 through 6) and under
19 California Education Code § 220 (claim 7). Plaintiffs have not alleged that State
20 Defendants are recipients of federal and state financial assistance and, even if they
21 had, State Defendants are not proper defendants for such claims. Plaintiffs also
22 have not alleged facts sufficient to show intentional sex discrimination, ineffective
23 accommodation and/or unequal treatment. The Title IX claims likewise fail against
24 State Defendants because State Defendants lack clear notice that allowing
25 transgender girls to participate in girls' high school interscholastic programs and
26 activities violates Title IX. Additionally, there is no conflict between Title IX and
27 Assembly Bill 1266.

1 This motion is made following the conference of counsel pursuant to Local
2 Rule 7-3, which took place on March 20, 2025. The following attorneys were
3 present for the conference on behalf of Plaintiffs: Julianne Fleischer and Joel Oster.
4 The following attorneys were present for the conference on behalf of State
5 Defendants: Stacey Leask, Katherine Grainger, Truman Braslaw and Darrell
6 Spence. The conference, which was held by telephone, lasted approximately 30
7 minutes. During the conference, counsel for State Defendants informed Plaintiffs'
8 counsel of the grounds upon which the claims for relief against State Defendants
9 are subject to dismissal, including that Plaintiffs lack Article III standing, that the
10 seventh claim based on alleged violation of state law is barred by Eleventh
11 Amendment sovereign immunity, and that Plaintiffs have failed to state cognizable
12 claims for relief against State Defendants under Title IX or California Education
13 Code section 220. The parties did not agree to any resolution with respect to the
14 claims asserted by the First Amended Complaint during the conference.

15 State Defendants' counsel then followed up with a written email to Plaintiffs'
16 counsel that further detailed the grounds for dismissal with legal authorities on
17 March 26, 2025, and asked that Plaintiffs let counsel know if Plaintiffs would
18 amend the First Amended Complaint or dismiss any of the claims for relief against
19 State Defendants. Plaintiffs declined this invitation.

20 This motion to dismiss is noticed to be heard on May 16, 2025. However,
21 State Defendants are aware that the other defendants in the case have filed a motion
22 to dismiss (ECF No. 37) that is set to be heard on April 25, 2025, and that the Court
23 directed the parties to file a stipulation for all motions to dismiss to be heard on the
24 same date. ECF No. 40. State Defendants have contacted the parties regarding a
25 single hearing date for both motions, and will work with the parties to file a
26 stipulation regarding a hearing date.

27 The motion is based upon this Notice, the accompanying Memorandum of
28 Points and Authorities in support, the attached Request for Judicial Notice, the

1 papers and pleadings on file in this action, and such matters as may be presented to
2 the Court at the time of the hearing.

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4 Dated: March 28, 2025

Respectfully submitted,

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ROB BONTA
Attorney General of California
DARRELL W. SPENCE
Supervising Deputy Attorney
General

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/S/ *Stacey L. Leask*

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STACEY L. LEASK
Deputy Attorney General
*Attorneys for Defendants State
Superintendent of Public Instruction
Tony Thurmond and Attorney General
Rob Bonta*

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CERTIFICATE OF SERVICE

Case Name: **Save Girls' Sports, et al v Tonly Thurmond, et al.** No. **5:24-cv-02480-SSS-SP**

I hereby certify that on March 28, 2025, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

STATE DEFENDANTS' NOTICE OF MOTION TO DISMISS AND MOTION TO DISMISS PLAINTIFFS' FIRST AMENDED COMPLAINT

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on March 28, 2025, at Sacramento, California.

Christopher R. Irby

Declarant

S/ Christopher R. Irby

Signature

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